IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Crl.MC.No. 3406 of 2007()

CC.296/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA

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PETITIONER:

SURESH.K.R., S/O.RAMACHANDRAN,
AGED 44 YRS., 13/41, USHA STREET,
SEETHAPATHY NAGAR, VELACHERY, CHENNAI-42.

BY ADV. SRI.P.S.DIVAKARAN
SMT.K.R.KRISHNAKUMARI
SMT.C.B.ANUROOPA
SRI.M.ANIL KUMAR
SMT.PREETHI K.PURUSHOTHAMAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. C.R.VIDYADHARAN,
MALAYIL, KARITHOTTA MURI, KIDANGANNUR VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI. P. RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/11/2007, ALONG WITH CRMC NO. 3409 & 3428 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos.3406, 3409 &
3428 of 2007

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Dated this the 15th day of November, 2007

O R D E R

The common petitioner in these three Crl.M.Cs. has been found guilty, convicted and sentenced in three separate prosecutions, all under Section 138 of the N.I. Act. He faces the substantive sentence of imprisonment till rising of court in all the three cases. He has been directed to pay compensation in all the three cases. Default sentences are also prescribed in the event of non-payment of the default sentence. The verdicts of guilty, conviction and sentence have all become final. Time was fixed for payment of compensation amounts. Amounts were not paid within the time stipulated. Extension of time has been granted. Inspite of that, amount has not been paid. It is in this context that the petitioner has come before this Court with these three petitions with an identical prayer.

2. The short prayer is that the petitioner may not be compelled to undergo the default sentence before attempt is made

to recover the fine amount from the movable and immovable properties of the petitioner under Section 421 Cr.P.C.

3. It is not the law at all that the default sentence can be executed only after the steps to recover the amount under Section 421 Cr.P.C. fail to bear fruit. No principle or precedent is cited as authority for such a theory. In fact the law as declared in **Sajkumar** v. **Soman Pillai** (2006 (3) KLT 679) is that even if the petitioner undergoes the default sentence, if the liability to pay compensation is not discharged, steps under Section 421 Cr.P.C. can continue.

4. In these circumstances I find no merit whatsoever in the prayer that execution of the default sentences must wait till steps for recovery under Section 421 Cr.P.C. are completed.

5. These Crl.M.Cs. are accordingly dismissed.

(R. BASANT)
Judge

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